

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-342-RJC
(3:07-cr-144-RJC-2)**

NILES M. BELK,)	
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
<hr/>)	

THIS MATTER is before the Court on Petitioner’s Unopposed Motion to Amend § 2255 Motion, (Doc. No. 5), and Petitioner’s Motion to Stay Motion to Vacate Sentencing Under 28 U.S.C. § 2255, (Doc. No. 6), which is also unopposed.

In the Motion to Amend, Petitioner seeks to add a claim that his conviction pursuant to 18 U.S.C. § 924(c) is invalid under Johnson v. United States, 135 S. Ct. 2551 (2015). The Respondent does not oppose the Motion to Amend but reserves the opportunity to respond and raise any applicable defenses including limitations. See (Doc. No. 5 at 4). The Motion to Amend will be granted.


In the Motion to Stay, Petitioner seeks to hold these proceedings in abeyance pending the Supreme Court’s issuance of Sessions v. Dimaya, case no. 15-1498. The Motion is now moot because the Supreme Court issued its opinion in Dimaya on April 17, 2018, and will be denied. 138 S. Ct. 1204.

The Court will direct that the United States file an Answer or other responsive pleading in this case within **sixty (60) days** from entry of this Order.

IT IS, THEREFORE, ORDERED that:

1. Petitioner's Unopposed Motion to Amend § 2255 Motion, (Doc. No. 5), is **GRANTED**.
2. Petitioner's Motion to Stay Motion to Vacate Sentencing Under 28 U.S.C. § 2255, (Doc. No. 6), is **DENIED** as moot.
3. No later than **sixty (60) days** from entry of this Order, the United States Attorney shall file an Answer or other responsive pleading to Petitioner's Amended Motion to Vacate, Set Aside, or Correct Sentence.

Signed: May 16, 2018


Robert J. Conrad, Jr.
United States District Judge

